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Overlay
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Abstract

The Desert Lands Conservation Overlay (DLCO) of the City of Peoria is designed to protect desert hillsides in the City from development. It seeks to protect the sensitive habitats of the Sonoran Desert found in Peoria by providing controls for the development of desert conservation features such as ridges and peaks, major rock outcrops, critical wildlife habitat corridors, washes and riparian habitats.

Resource

**ARTICLE 14-40
DESERT LANDS
CONSERVATION OVERLAY**

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SECTION 14-40-1 INTENT

The purpose of the Desert Lands Conservation Overlay (DLCO) is to identify and protect the unique and environmentally sensitive Sonoran Desert lands in the City generally located north of ~~Jomax~~ Pinnacle Peak Road on the east side of the Agua Fria river and lands west of the Agua Fria River and to promote the public health, safety and welfare by providing appropriate and reasonable controls for the development of such lands. Specifically, the DLCO is intended to:

- A. Identify sensitive desert conservation features and resources, including, but not limited to, major rock outcrops, significant ridges and peaks, critical wildlife habitat and migration corridors, unique vegetation specimens, significant washes, and significant riparian habitats.
- B. Protect and preserve Peoria's distinctive desert landscapes and wildlife habitats for the enjoyment of current and future generations.
- C. Protect people and property from hazardous conditions characteristic of environmentally sensitive lands and their development. Such hazards include rock falls, rolling boulders, other unstable slopes, flooding, flood-related mudslides, subsidence, erosion, and sedimentation.
- D. Integrate conservation design into the development of sensitive desert lands and employ development standards and guidelines that equitably balance conservation and development objectives.

In addition, the DLCO is intended to implement the goal, policies and objectives of the Desert Lands Conservation Master Plan (DLCMP). The overlay establishes a holistic approach to evaluating the environmental conditions of each site that allows both City staff and the development community a better basis for determining conservation areas. The overlay also establishes criteria for determining conservation priorities based on the potential to expand or extend a regional open space corridor, the opportunity to provide a link to an existing or future trail system, the possibility of expanding an existing open space, or the possibility of creating a buffer zone between different intensities of uses.

The DLCO not only preserves areas, but native plants and plant communities in order to maintain the natural setting of the area to be developed. Native plants identified for preservation are chosen on the basis of slow growth habit, maturity, the fact that the plant alone or in combination with others provides unique wildlife habitat, rarity in this environment, and successful salvage rate in this region.

Finally, the DLCO establishes standards and design guidelines for development within desert areas and adjacent to conservation areas. These regulations and guidelines vary by slope category in order to address the distinctive types of geography found in the Peoria desert areas. The classification system assumes a single vegetation type in Peoria, Lower Sonoran, consisting of creosote, bursage, and saltbush associations.

SECTION 14-40-2 APPLICABILITY

The Desert Lands Conservation Overlay (DLCO) establishes a special overlay zoning district, which applies to specific resources and environmental conditions typically found in the desert and mountains in west and northwest Peoria, primarily north of Happy Valley Road and west of the Agua Fria River. In order to accomplish the purpose of this district, the City of Peoria shall apply these provisions to lands that contain any of the following conservation features and resources:

- A.** Land with slopes of ten (10) percent or greater.
- B.** Special Conservation features listed below and as defined in Section 14-40-9:
 - 1. Primary Peak
 - 2. Mountainous Area
 - 3. Isolated Peak
 - 4. Skyline Ridge
 - 5. Plateau
 - 6. Rock/Boulder Formation
 - 7. Significant Vegetation Area
 - 8. Significant Vegetation Specimen
 - 9. Riparian Vegetation
 - 10. Riverine Area
 - 11. Primary Wash
 - 12. Secondary Wash
 - 13. Spring
 - 14. Tank
 - 15. Wildlife Corridor
 - 16. Wildlife Habitat
 - 17. Cultural Resource

18. View Corridor

C. Protected Native Plants

SECTION 14-40-3 PRE-APPLICATION CONFERENCE

A pre-application conference shall be required prior to submittal of any application for development approval for property containing slopes in excess of 10%, Conservation Features or required Natural Open Space. Applicants shall present the Existing Conditions Data Report and Conservation Features Plan (CFP) in accordance with City of Peoria submittal requirements in advance of this meeting.

SECTION 14-40-4 DESERT LANDS DEVELOPMENT APPLICATION STANDARDS

A. Desert Lands Conservation Report (DLCR). A Desert Lands Conservation Report (DLCR) shall be submitted with any development application for property containing slopes in excess of 10%, Conservation Features or required Natural Open Space located within the Desert Lands Conservation Overlay.

B. Desert Lands Conservation Report Submittals. The DLCR shall contain the following information, reports and exhibits:

1. Project Identification data:

- a. Proposed name of the development;
- b. Location by section, township and range, referenced by distance and bearing to a section corner or quarter-section corner;
- c. Name, address, and phone number of the developer;
- d. Name, address, and phone number of the person preparing the plan/mapped data; and
- e. Scale, north arrow, and date of preparation, including revision dates.

2. Project Narrative and Overview, including;

- a. Size of project, in acres;
- b. Existing land uses;
- c. Proposed land uses, including total number of dwelling units, number of dwelling units by net density range, gross building area for non-residential uses, building coverage for non-residential uses, building heights, required open space and required parking; and

- d. Description of unique site characteristics.
3. Existing Conditions Data Report
4. Conservation Features Plan
5. Master Conservation Plan
6. Hillside Development Plan
7. View Corridor Assessment
8. Native Plant Preservation and Mitigation Plan
9. Specification and Standards Report

SECTION 14-40-5 PLAN AND REPORT SPECIFICATIONS

- A. Existing Conditions Data Report (ECCR). The ECCR shall contain the following information. Maps shall adhere to specifications found in the Desert Lands Conservation Guide.
 1. A vertical aerial photograph at the same scale as the native plant inventory;
 2. Preliminary Native Plant inventory and community identification map, including significant stands and specimen plants;
 3. Topographic map;
 4. Drainage, including delineation of the 100 year floodplain and floodway limits for drainage ways that serve areas of more than ¼ square mile or which generate an estimated flow rate of more than 500 CFS for the 100 year event;
 5. Minor washes identified or proposed for identification as waters of the U.S. in a Section 404 permit issued by the U.S. Army Corps of Engineers;
 6. Soils series, types and phases, as mapped by the U.S. Department of Agriculture, Natural Resources Conservation Services in the published soil survey for Maricopa County, and accompanying data published for each soil relating to its suitability for construction and septic systems;
 7. Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, sinkholes, unstable slopes and fault lines, based on available published information, or as specified by the City Engineer;

8. Cultural, historical and archeological feature inventory, including, but not limited to a records check from the Arizona State Museum, and a field survey by a qualified archaeologist if a field survey has been recommended and/or there is a high probability for the discovery of archaeological resources. Any cultural resources identified shall be entered into the Arizona State Museum site file system. Detailed location maps of such sites shall not be included in the site analysis, but shall be available from the archaeologist or consultant for staff review as necessary;
 9. Wildlife/habitat inventory, as determined by the Arizona Game and Fish Department;
 10. Location of dedicated or planned parks, open space, trails and access points; and
 11. Existing disturbed areas due to previous burning, scarring, or grading.
- B.** Conservation Features Plan (CFP). The CFP shall, on a single topographic map, identify:
1. Conservation features found within the project boundaries.
 2. Proposed Natural Open Space (NOS) areas;
 3. Sloped areas over 10%, using 10% slope lines; and
 4. Tabulated NOS requirements for the proposed development.
- C.** Hillside Development Plan. A Hillside Development Plan shall be submitted containing the following elements.
1. Slope Analysis. A slope analysis shall be submitted that identifies the location of sloped areas and 5% slope lines beginning at the 10% slope line.
 - a. A Slope Category Map shall be prepared utilizing one of the two methodologies outlined in the Desert Lands Conservation and Standards Guide.
 - b. The Final Slope Category Map containing 5% slope category delineations shall be utilized in determining allowable densities, parcel disturbance, and Natural Open Space requirements. Preliminary Plats shall contain proposed Disturbance/Coverage Envelopes for each parcel and shall contain tabular information necessary to determine compliance with this Article.

- c. A property owner or authorized agent shall submit to the Planning Manager a Slope Category Determination Study pursuant to this Section, or request for a waiver from such requirement simultaneously with zoning or platting applications or prior to the issuance of a building or grading permit.
2. Elevation Analysis. A map or maps shall be submitted delineating areas with the same elevation range, including significant ridgelines.
3. Disturbance/Coverage Envelopes. A map or maps shall be submitted identifying Disturbance/Coverage Envelopes for each lot.
4. Cut and Fill Plan. A map or maps shall be submitted that identifies areas of cut, areas of fill, and areas of mass grading. The plan shall identify street corridors and contouring activities associated with street construction. Each cut or fill area shall be referenced with the appropriate construction detail and tabulated construction information, including depth, slope ratios and strategies. The plan shall identify a site or sites to which excess cut/fill material will be transported.
5. Proposed Development Intensity Plan. A map or maps and narrative shall be submitted describing the location of development. Information shall include proposed densities of housing areas and FAR's of commercial areas. Proposed density transfers shall be described.
6. For individual residential lot development, the requirement to provide a Hillside Development Plan shall be as follows:
 - a. For projects less than five acres, a Hillside Development Plan shall be prepared for the disturbed area.
 - b. For projects containing more than five acres, a Hillside Development Plan shall be prepared for that portion of the lot with slopes that exceed 10%.

D. View Corridor Assessment.

1. An analysis of the location and extent of views to Primary Conservation Features located on the property from public roads and publicly owned lands located at the perimeter of the site; and
2. An analysis of the location and extent of views to Primary Conservation Features located on parcels immediately abutting the site from proposed public roads and public lands located within the site.

E. Native Plant Preservation and Mitigation Plan. A Native Plant Preservation and Mitigation Plan shall be prepared and shall include a Protected Native Plant Inventory of plants within the project boundary. A map or maps shall be prepared that identifies the location of Protected Native Plants with tabulation indicating plant type, size, numbers and status. Preference is always for the preservation of the plant in place. Preliminary Plant Inventories prepared for submittal for the Pre-Application Conference need only provide the map. Specifications for submittal requirements are as follows:

1. Plant type. Indicate botanical as well as common name.
2. Plant size. Indicate caliper in inches for trees and the height of cacti.
3. Plant status. Indicate whether the plant will remain in place, be moved to another location or be destroyed (Any plant that is destroyed or determined to be unsalvageable must have an explanation detailing the current status of the plant and the explanation of the status).
4. Nursery Management Plan. Identify methods for plant salvaging, temporary plant health management and replanting. Provide a location on the map for the nursery and cleanup and re-use strategy for the site(s).
5. Plant Tagging Plan. Identify a plant tagging strategy for permanently identifying Protected Native Plants within the project. The strategy shall explain how and when plants will be tagged, information on the individual tags and planned durability of the tagging material.

F. Master Conservation Plan (MCP). The MCP shall consist of one map containing the following elements.

1. Conservation Features to be preserved;
2. Natural Open Space areas;
3. Native plants to be preserved in place;
4. View Corridors;
5. Naturalized (revegetated) Areas;
6. Development Areas, including:
 - a. Locations of Development Pads (areas of mass grading) and/or individual Building Envelopes;
 - b. Alignment of Streets and Trails, including site visibility triangles;

- c. Location of storm water management facilities;
- d. Location of sanitary sewer;
- e. Location of water service;
- f. Location of improved common areas (private and public);
- g. Delineation of project phasing, if applicable; and
- h. Typical street cross-sections.

G. Site Inspection. For those sites with particularly complex conditions, applicants shall arrange for a site inspection of the property by the City and shall distribute copies of the Existing Conditions Data Report and PCFP at the on-site meeting. Applicants, their site designers, and the landowner are encouraged to participate in the site inspection. The purpose of this visit is to review the property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts, including the prioritization of conservation features, and possible locations for buildings and street alignments.

H. Approval Process. A Desert Lands Conservation Report (DLCR) accompanying development requests requiring approval by the Planning and Zoning Commission or the City Council shall be approved as part of the development request. The Planning Manager or his/her designee shall approve all DLCRs for development requests requiring building permit, site plan or subdivision plat approval. Approvals of the DLCR shall be valid for the same period of time accorded to the accompanying development request. However, under no circumstance shall the Master Conservation Plan (MCP) be valid for a period exceeding one (1) year.

SECTION 14-40-6 DEVELOPMENT STANDARDS

A. Conservation. In order to preserve sensitive environmental conditions, retain and protect meaningful desert open space, and conserve ecological and aesthetic resources, all development within the DLCO shall be subject to requirements for the preservation of natural open space, conservation features, and native plants.

1. Natural Open Space

- a. A percent of the land area within each development shall be preserved as Natural Open Space (NOS) as provided in Table 1 below:

TABLE NO. 1

SLOPE RANGE	REQUIRED NOS
0%-10%	20%
10-15%	30%
15%+	40%

- b. The required NOS shall be comprised of the primary conservation features listed in Section 14-40-2.C, and defined in Section 14-40-9. If the total acreage of these elements does not meet the minimum NOS requirements, then areas with 25% or greater slope shall be added in such a manner as to expand or extend the NOS until the required percentage is achieved. If, after incorporating all areas with slopes of 25% or greater, the minimum NOS requirement is still not met, then additional open space shall be provided which expands or extends a regional open space corridor, increases the size of an existing or adjacent open space area, creates a linkage to an existing or planned trail, or provides a public access point to existing or planned natural open space.
- c. In the event that the combined area of all primary conservation features exceeds the maximum required acreage, the following criteria listed in priority order shall be used to guide the determination of which features shall be preserved:
- (2) expands or extends a regional open space corridor;
 - (3) abuts existing and/or planned open space;
 - (4) allows opportunity to provide a link to existing or future trail systems; and
 - (5) provides a non-motorized access route from the nearest public right-of-way to an open space area.
- d. The minimum contiguous area for NOS is six thousand five hundred (6,500) square feet.
- e. The minimum horizontal dimension for NOS is fifty (50) feet.
- f. Where the minimum finished lot size is eighteen thousand (18,000) square feet or less, NOS shall not be allowed on individual lots and must be placed in common tracts.

- g. If land designated as NOS is located in a common tract owned by a homeowners association, the property shall be maintained through a common maintenance agreement.
- h. Whether located on individual lots or in common tracts, the boundaries of Disturbance/Coverage Envelopes shall be delineated in the field with permanent markers in order to prevent encroachment into NOS areas.
- i. Within areas identified as NOS, no grading or other disturbance shall occur except grading for trails, roadways and utility easements. Restoration, as defined in Section 14-40-9, of the disturbed area is mandatory and shall follow plans reviewed and approved by the City.
- j. No part of the Disturbance/Coverage Envelop shall encroach into a required setback area.
- k. A minimum of 40% of the linear distance along the edge of any NOS shall consist of one or a combination of the following:
 - (1) a public or private street;
 - (2) a public or private improved open space with a minimum length of 100 feet along the NOS and a minimum depth of 100 feet or a location directly connecting the NOS to a public or private street;
 - (3) a termination of a public or private street in a configuration that provides on-street parking for four (4) vehicles and sufficient width for maneuvering;
 - (4) an equivalent creative alternative as approved by the City that provides visual and physical access, and results in diversity of the edge treatment.
- k. The total length of lots backing up to the NOS shall not exceed 1,000 feet without incorporating one of the edge treatments described in Section 14-40-4.A.1.j.

2. Rivers and Washes

- a. All Primary and Secondary Washes, as defined in Section 14-40-9, shall be preserved in an undisturbed condition.
- b. The area to remain undisturbed of a Primary or Secondary Wash that has a one hundred-year peak flow greater than five hundred (500) cfs

shall be based on the following formula: the setback as measured from the floodway on each side of the wash shall average $1.0(Q100)^{0.5}$, with a minimum setback of seventy-five percent of $1.0(Q100)^{0.5}$.

- c. The area of a Primary or Secondary Wash to remain undisturbed that has a one hundred-year peak flow of less than five hundred (500) cfs shall be determined by a width sufficient to allow for wildlife passage outside of the incised wash.
- d. No major structural changes or improvements shall be allowed in Primary and Secondary Washes, and vegetation shall be left in place except as follows:
 - (1) to prevent erosion from channelization or combination of smaller washes;
 - (2) to allow wash crossings of roadways, trails and utility easements. Trails and utilities may cross washes, but in no way shall they be placed in the wash bed running parallel to the wash. Public utility easements shall be restored when construction is completed;
 - (3) to prevent wash migration, where the structures are placed behind the required wash setback;
 - (4) to allow discharge from adjacent retention or drainage facilities, as approved by the City.

3. Wildlife Habitat

- a. Corridors shall be established along both sides of washes identified for conservation which include the estimated 100-year floodplain and an additional upland buffer of 25 feet or the outer edge of the erosion hazard zone, if mapped, whichever is greater. Non-motorized trails shall be permitted within the upland buffer.
- b. Linear utility lines shall be placed parallel to, but just outside, the conserved wash and associated upland buffer to provide a more gradual transition to developed areas. Utility lines shall be buried if possible and restored using indigenous plants so that there is no net loss of habitat function or value.

4. Scenic Resources

- a. A Viewshed Analysis shall be prepared identifying the key visual landmarks for the development, Viewpoints and Viewsheds and

strategies for preserving the Viewsheds.

- b. A scenic corridor and setback of 100 feet, measured from the edge of the flow channel, shall be established along both sides of the Agua Fria River within which the immediate foreground is kept intact with native or enhanced desert vegetation and no structures are permitted, except for those associated with utilities, stormwater management, and roadways.
- c. Scenic corridor buffers, measured from edge of right-of-way, of 50 feet within the Rural Section, 30 feet within the Suburban Section, and 15 feet within the Urban Section, shall be established along both sides of the Lake Pleasant Parkway Corridor within which the immediate foreground is kept intact with native or enhanced desert vegetation and no structures are permitted, except those associated with utilities, stormwater management, and roadways. The limits of the Rural, Suburban, and Urban Sections are shown on Figure 4, Development Section Map, of The Lake Pleasant Parkway Corridor Specific Area Plan dated March 6, 2000.

5. Cultural Resources

- a. Provide a letter report from the Arizona State Museum, the State Historic Preservation Office, or a qualified archaeologist that reviews all of the available information for the site. This record check shall: determine whether the site has been field surveyed for cultural resources; identify any previously-recorded archaeological or historic resources known to exist on the property; state the probability of that buried archaeological resources not visible from the surface would be discovered on the site; and make an informed recommendation as to whether an archaeological survey of the site is needed.
- b. Describe and map archaeological and historic sites identified on the property in either the records check or a subsequent field survey. Detailed location maps of such sites shall not be included in the site analysis, but shall be available from the archaeologist or consultant for staff review as necessary.
- c. Complete a field survey by a qualified archaeologist and submit the results with the RCP, if a field survey has been recommended and\or there is a high probability for the discovery of archaeological resources. Any cultural resources identified shall be entered into the Arizona State Museum site file system.
- d. Determine the significance of the reported cultural resource(s) by consulting with a qualified archeologist or the State Historic

Preservation Office (SHPO).

- e. Assess the impact of the proposed development on the cultural resource(s). If the resource cannot be preserved in place or protected by acceptable means, it must be mitigated. This assessment shall only be conducted by a certified archaeologist.
 - f. Mitigate the cultural resource if preservation or protection is not possible. Mitigation generally means data recovery, including excavation, analysis, curation, and report preparation. It may also require a plan to dispose of human remains. Any proposed mitigation measures shall be reviewed and approved by SHPO prior to the commencement of any activity on the site.
6. Native Plants
- a. No person shall destroy, mutilate, remove from the premises, or relocate to another place on the premises any protected native plant existing within the City without first obtaining a Native Plant Permit from the City.
 - b. Minimum size requirements necessary to meet Protected Native Plant status include 4 inch caliper or greater for trees, 5 gallon for shrubs, and 3 feet tall or greater for cacti. A list of Protected Native Plants is provided in Table 2.

TABLE 2

Protected Native Plant List	
<i>Botanical Name</i>	<i>Common Name</i>
<i>TREES</i>	
Cercidium floridum	Blue Palo Verde
Cercidium microphyllum	Foothills Palo Verde
Chilopsis linearis	Desert Willow
Juniperus mono sperma	One-Seeded Juniper
Olneya tesota	Ironwood
Populus fremontii	Fremont Cottonwood
Prosopis velutina	Velvet Mesquite

SHRUBS	
Acacia constricta	Whitethorn Acacia
Acacia greggii	Catclaw Acacia
Celtis pallida	Desert Hackberry
Larea tridentada	Creosote
CACTI/SUCCULENTS/ACCENTS	
Carnegiea gigantean	Saguaro
Ferocactus species	Barrel Cactus
Fouquieria splendens	Ocotillo
Peniocereus greggii	Desert Night-Blooming Cereus
Yucca baccata	Banana Yucca/Blue Yucca/Datil Yucca
Yucca elata	Soaptree Yucca

- d. Native Sonoran Desert vegetation shall not be pruned or removed from areas identified as Natural Open Space unless demonstrated to the City that a health, safety or welfare issue exists. This includes removal of dead trees or cacti.
- e. Plants specified on the prohibited plant species list shall not be allowed. Certain plants that do well in this region present a distinctly non-desert appearance and/or pose potential hazards to the native vegetation, wildlife and landscape due to their invasive nature. The plants listed in Table 3 exhibit these characteristics.

TABLE 3

PROHIBITED PLANT SPECIES LIST	
Botanical Name	Common Name
TREES	
Brachychiton populneus	Bottle Tree

Eucalyptus sp. (except as identified above)	Eucalyptus
Olea sp.	Olive Tree
Parkinsonia aculeata	Jerusalem Thorn/Mexican Palo Verde
Pinus sp.	All species of Pine
Prosopis chilensis (prohibited in parking areas only)	Chilean Mesquite
Rhus lancea	
Washingtonia sp.	African Sumac
	Fan Palm
<i>SHRUBS</i>	
Oleander sp. (except petite varieties)	Oleander
Thevetia peruviana	Yellow Oleander
<i>GROUNDCOVERS, ANNUALS, PERENNIALS, VINES, ETC.</i>	
Cenchrus ciliaris or Pennisetum cileare	Buffel Grass
Cynodon dactylon (except in private backyards, enclosed courtyards, and public use areas buffered from Native Sonoran Zones by Sonoran Character Zones)	Common Bermuda Grass
Eragrostis lehmanniana	
Gutierrezia sarothrae	Lehmann's Lovegrass
Hordeum jubatum	Snakeweed
Pennisetum sp.	Foxtail Barley
	Fountain Grass

- f. The prohibited plant species list shall be provided to all purchasers of property and shall be listed in the Property Owner's Association CC&R'S. These CC&R's shall specifically note that trees that grow substantially taller than the native desert trees are not appropriate because they will impair views.

- g. In areas designated as NOS, where a portion has been burned or previously damaged, the area will be restored. Restoration shall be typical of the surrounding area, i.e., tree-lined washes will be restored with trees of the same species, size, density and placement; graded slopes will be recontoured similar to nearby slopes, etc. The HOA will be responsible for the management of private restored areas. Where this occurs at the edge between public and private development, the public open space will be restored at the same time as the private open space.

B. Development. In order to integrate conservation design into the development of sensitive desert lands in a manner that balances conservation and development objectives, all development within the DLCO shall be subject to the following requirements.

1. Prohibited Uses

No development is permitted on slopes greater than 25%. However, residential density credits shall accrue for areas with slopes greater than 25%.

2. Setbacks

Setbacks for the Disturbance/Coverage Envelope within the DLCO shall follow setback requirements for the underlying zoning district. Setbacks from Conservation Features shall not contain disturbances except for trails and utility installations. Setbacks for Conservation Features shall be as follows:

- a. Primary Peak: 100 feet from the boundary of the Primary Peak.
- b. Mountainous Area: 50 feet from the boundary of the Mountainous Area.
- c. Isolated Peak: 100 feet from the boundary of the Isolated Peak.
- d. Skyline Ridge: 100 feet from the boundary of the Skyline Ridge; or 300 feet from the line of constant elevation forming the top of the Ridge Line, whichever is less.
- e. Plateau: 100 feet from the boundary of the Plateau.
- f. Rock/Boulder Formation: 100 feet from the boundary of the Rock/Boulder Formation.

- g. Rock Outcropping: 100 feet from the boundary of the Rock Outcropping.
- h. Significant Vegetation Area: 100 feet from the boundary of the Significant Vegetation Area, or the setback for the wash if it is located in a wash.
- i. Significant Vegetation Specimen: A Significant Vegetation Specimen shall be located within an area of NOS and 100 feet from a disturbed area.
- j. Riparian Vegetation: The setback for the wash ore Riverine Area in which it is located.
- k. Riverine Area: See Section 14-40-
- l. Primary Wash: See Section 14-40-
- m. Secondary Wash: See Section 14-40-
- n. Spring: 100 feet from the boundary of the Spring.
- o. Tank: 100 feet from the boundary of the Tank.
- p. Wildlife Corridor: 100 feet from the boundary of the corridor, or the setbacks for the Conservation Feature in which it is located.
- q. Wildlife Habitat: 100 feet from the boundary of the habitat, or the setbacks for the Conservation Feature in which it is located.
- r. Cultural Resource: The setback shall be as specified in the agreement with the State Historic Preservation Officer.
- s. View Corridor: The setback shall be as specified in the View Corridor Assessment.

2. Density

- a. The maximum number of residential density credits permitted within the DLCO shall be the sum of the number of units allowed by the underlying zoning district, or the sum of the number of units allowed in each slope category of land as shown in Table 4, whichever is the lesser number. For the purpose of this section only, “residential density credits” shall mean single or multiple family dwelling units or resort rooms.

TABLE 4

MAXIMUM DWELLING UNIT DENSITY	
Slope of Land	Dwelling Units per Acre
0% to 10%	Determined by underlying zoning
10% to 15%	1.50
15% to 20%	1.00
20% to 25%	0.70
25% to 30%	0.50
30% to 35%	0.30
35% to 40%	0.20
40% & Over	0.10

- b. The residential density credits may be distributed within the Development Areas identified in the approved Desert Lands Conservation Report. However, in no case shall any development be permitted in areas with slopes in excess of 25%, nor shall the density exceed the maximum allowed by the underlying zone.

3. Disturbance/Coverage Envelope

- a. The Disturbance/Coverage Envelope in each development, including driveway and accessory use areas, is determined by subtracting the NOS requirement from the gross site area. No physical disturbance is allowed in areas with slopes of 25% or greater.
- b. The Disturbance/Coverage Envelope may be distributed within the Development Areas identified in the Proposed Conditions Exhibit.
- c. For residential lots of 18,000 square feet or more, no part of the Disturbance/Coverage Envelope shall be located within a required set back.

4. Grading

- a. All buildings, structures and roads shall, to the fullest extent practicable, use the natural contours of the land so as to minimize the disturbed area.
- b. All lots less than 18,000 square feet net area shall be eligible for mass grading.
- c. All lots greater than 18,000 square feet net area shall establish a Disturbance/Coverage Envelope.
- d. The maximum height of any cut or fill used to establish a building site

or driveway shall not exceed fifteen (15) feet and must comply with the provisions of the Peoria Building Codes. The maximum height of any cut or fill used to establish a road or roadway shall not exceed thirty (30) feet. All areas of cut or fill necessary to establish a public or private roadway and falling outside of the public right-of-way or private roadway easement shall be counted against the total disturbed area allowance for the individual lot or parcel. All roadway cuts shall be restored and all roadway fills shall use retaining walls to minimize spill areas. All spill slope areas shall be restored and all retaining walls shall be designed to minimize the visual impact of any required retaining wall.

- e. If fill material is used to change the existing grade, retaining walls shall be used to minimize spill areas. The use of raw spill slopes is prohibited.
- f. All surplus excavated material shall be removed from lots and roadways or contained behind retaining walls or landscaped so that the slopes of any fill material will not be visible from any public street or private access ways.
- g. All cut slopes shall be chemically color treated to blend with adjacent rocks or desert.
- h. The grading of hillside areas shall demonstrate a general balance of cut and fill to encourage gradual topographical transitions which blend with the natural grade.

5. Streets, Roads and Driveways

- a. Streets and private access way grades shall conform as closely as possible to natural topography, but shall not exceed fifteen percent (15%).
- b. Street grades exceeding twelve percent (12%) shall have a maximum length of six hundred (600) feet.
- c. Vertical curbs shall be required on the downhill side of streets having grades of six percent (6%) or greater; elsewhere other types of approved curb may be installed in lieu of conventional rolled or vertical curb.
- d. On a corner lot, no grading shall be allowed which results in the ground level being increased so as to present an obstruction to vision above a height of three (3) feet above the grade of either street within an area formed by the lot lines on the street sides of such lot and a line

joining points on such lot lines located a distance of thirty-three (33) feet from the point of their intersection.

- e. Private access ways may be permitted to provide access to lots in lieu of the required street frontage. Each private access way serving one lot shall be a minimum of twenty (20) feet wide with a minimum paved surface of twenty-four (24) feet in width. Where needed, additional easements for draining or utilities shall be provided.
- f. Maximum driveway grades shall not exceed twenty percent (20%).
- g. Driveways with turning radii of less than forty (40) feet may be used provided all structures are protected with an approved fire sprinkling system.
- h. Driveways surfaced with paved bricks, colored concrete or exposed aggregate, colored to blend with the existing native color of the site, and shall be included in disturbed area calculations at fifty percent (50%) of their total area.
- i. Any driveway cut greater than eight (8) feet in depth shall not have a length greater than one hundred (100) feet; and the maximum height of any cut or fill used to establish a driveway shall not exceed fifteen (15) feet.

6. Utilities

- a. All utilities shall be installed underground in the streets and/or private access ways.
- b. Connection to a public sewer system is required in connection with Chapter Twenty-five (25) of the City Code (1992 Edition), where available.
- c. Private individual lot sewer systems shall be designed by a registered Engineer.

7. Building Heights and Appearances

- a. No part of any structure shall penetrate an imaginary plane, the height of which is thirty (30) feet measured vertically from any point outside of the building where the face of the building or support intersects natural ground, except that where the natural grade is not restored back against the building, no exposed face in any vertical plane shall exceed a height of thirty (30) feet measured from the lowest exposed base.

- b. Structures, walls, roofs and fences shall blend with the surrounding terrain and there shall be no material or colors used which have a Light Reflecting Value (LRV) greater than forty percent (40%).
 - c. Mirrored surfaces or any treatment which changes ordinary glass into a mirrored surface is prohibited. Bright untarnished copper or other metallic surfaces shall be treated so they are non-reflective.
 - d. All electrical service equipment and subpanels and all mechanical equipment including, but not limited to, air conditioning and pool equipment, solar panels, and antennas, shall not be visible from outside the property when viewed from the same or lower elevation. Restrictions on visibility of solar panels and mechanical equipment may be modified if they are integrated into the roof design.
8. Walls and Fences
- a. The design of all retaining walls and ground coverings shall be prepared by a registered Engineer or Architect and shall be designed to blend with the surrounding environment and/or development in color, materials and style.
 - b. The exposed face of retaining walls shall not exceed six (6) feet in height. Any additional retaining walls shall be set back from the first wall a minimum of four (4) feet horizontally or one (1) foot per one (1) foot of height, whichever is greater.
 - c. Fences or walls on lots within the DLCO shall be restricted to privacy walls attached or directly screening a portion of the main residence. Privacy walls shall not exceed six (6) feet in height, shall be architecturally compatible with the main residence and shall be limited to the Disturbance/Coverage Envelope only.

SECTION 14-40-7 NATIVE PLANT PERMIT

- A.** Permit Required. A Native Plant Permit shall be required for development on any land within the Desert Lands Conservation Overlay District. In no event shall a Native Plant Permit be issued unless a Native Plant Preservation Plan, prepared in accordance with the requirements of section 14-40- , is presented with the application.
- B.** Submittal Requirements. Submittal information shall be as required in the Desert Lands Standards and Conservation Guide. This information pertains to submittals made for a Native Plant Permit with the exception of single family custom homes. Required information shall be as follows:

1. Proposed salvage contractor, cacti salvage contractor, and tax license number;
 2. Boundaries of NOS proposed for conservation;
 3. Letter of Authorization from the property owner identifying the city-approved salvage contractor for the project and verifying that all plants are to be replanted on site; and
 4. A copy of the form notifying the Arizona Department of Agriculture, Native Plant Section at (602) 542-3292, of the intent to destroy plant materials protected by state statutes. This information is available on the Internet at <http://agriculture.state.az.us/PDS/clearland.pdf>.
- C.** Single-Lot Residential Developments. A Native Plant Permit shall be required. Required submittals shall include a Native Plant Inventory prepared for the individual lot and submitted on a topographic map and a narrative describing plants to be preserved, relocated, removed and destroyed. The submittal shall also include a tagging plan as described in 14-40- .
- D.** Responsibility for Obtaining Permit. A Native Plant Permit shall be obtained by the property owner of record or by another party acting as agent upon presentation of written authorization by the property owner of record.
- E.** Action on Applications. Applications may be approved, approved conditionally, or denied. Where the Planning Manager or designee determines that the application is in conformance with the provisions of this article and with the provisions of Section 14-40-5.B.4 of the Zoning Ordinance, a permit shall be issued, with such conditions attached as necessary to insure that the Native Plant Program is successfully accomplished. Where it is determined that the application is not in conformance with the provisions of this article and with the provisions of Section 14-40-5.B.4 of the Zoning Ordinance, the application shall be denied. Action taken on applications may be appealed to the hearing officer appointed by the City Manager according to the procedures specified in Section 14-40-11 of the Zoning Ordinance.
- F.** Timing of Permit Approval. No Native Plant Permit shall be issued unless an application is submitted in conjunction with an existing or proposed development which requires administrative approval, Planning Commission approval, City Council approval, Board of Adjustment approval, or approval of a plat as determined by the City Manager or designee. For proposed development, the Native Plant Permit shall not be issued until the necessary development approvals have been secured.
- E.** Modification. It shall be unlawful to modify, alter, or amend an approved Native Plant Permit or an accompanying Native Plant Preservation Plan without reapplication for a Native Plant Permit according to the provisions of this article.

F. Expiration.

1. Every permit issued by the City under the provisions of this article shall expire and become null and void if the work authorized under the provisions of this article is not commenced within ninety (90) days from the date of issuance, unless otherwise specified as a condition of the permit approval or if the work authorized under the provisions of this article is suspended or abandoned for a period of ninety (90) days. Before such work can be recommenced, a new permit shall be obtained to do so pursuant to the provisions of this article.
2. Work shall be completed within the time period specified on the Native Plant Permit. The Planning Manager or designee shall have the authority to grant a ninety (90) day extension of the time limit for completion of the work upon written request of the applicant. Failure to comply with the time limitation without an extension authorized by the city shall require application for a new permit pursuant to the provisions of this article.

G. Exemptions. The City of Peoria, Maricopa County, the State of Arizona, and its political subdivisions, and the United States Government shall be exempted from the payment of fees herein required, provided that only such property occupied, operated, and maintained by the above-mentioned agencies shall be so exempted. All other provisions of this article shall apply to these agencies.

H. Plants to be Tagged; Requirements.

1. All protected native plants scheduled to remain in place or authorized for destruction or relocation by the approved Native Plant Permit must be tagged and numbered prior to permit submittal. Tags shall be color-coded according to the following schedule so that the status of each plant affected by the development proposal may be easily identified:
 - a. Plants proposed for destruction shall be tagged with blue plastic tags;
 - b. Plants proposed for relocation shall be tagged with red plastic tags;
 - c. Plants proposed to remain shall be tagged with white plastic tags.
2. Tags required by this article shall be affixed in a visible location on the plant. Once affixed, the tags shall not be removed until the plants are removed, relocated, or destroyed in compliance with the native plant permit and a final inspection has been made.

I. Timing of Work.

1. Protected Native Plants authorized for destruction under the provisions of this article may be destroyed after the time period specified as follows:

- a. One (1) to five (5) protected native plants may be destroyed after a minimum of fifteen (15) days after permit issuance.
 - b. Six (6) to fifteen (15) protected native plants may be destroyed after a minimum of thirty (30) days after permit issuance.
 - c. Sixteen (16) or more protected native plants may be destroyed after a minimum of sixty (60) days after permit issuance.
2. This time period shall commence on the date of permit application. This requirement shall not apply to those native plants deemed to be unsalvageable by the city and noted as such on the permit.
 3. In no instance shall destruction of protected native plants occur prior to issuance of a Native Plant Permit by the City.
- J.** Compliance with Approved Permit; Revocation. All work authorized by a permit issued in conformance with the terms of this article shall be completed as authorized. Failure to comply with the conditions of permit approval or the approved Native Plant Preservation Plan shall constitute a violation of the Native Plant Permit and may be punishable by permit revocation and/or citation under the authority of section L of this chapter.
- K.** Inspections. All aspects of the work performed as a result of a Native Plant Permit issued under the provisions of this article shall be subject to inspection by the City.
- L.** Penalties.
1. Generally. Any violation of this article is a Class 1 misdemeanor which, upon conviction, may be punishable by a fine not exceeding two thousand five hundred dollars (\$2,500.00), or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment, at the discretion of the city magistrate. Each day this violation continues shall constitute a separate offense.
 2. A Native Plant Permit shall not be issued after a violation resulting in destruction, removal, or relocation of protected native plants has been discovered until such time as a restoration program has been approved and the property has been restored with protected native plants of equivalent type, size, density, distribution, and condition as existed on the property prior to the violation. A program for restoration of the site shall be approved by the Planning Manager or designee and shall be based on the expected type, size, density, distribution, and condition of protected native plants within the vegetation communities in which the violation occurred. Appeal of a decision made by the Planning Manager or designee regarding a restoration program shall be heard by the Hearing Officer appointed by the City

Manager. Appeal of a decision made by the Hearing Officer regarding a restoration program may be made to the City Council in accordance with the rules and procedures established in section 14-40-11 of the Zoning Ordinance.

3. Waiver of restoration requirement generally. The City Manager or designee may waive the restoration requirement in subsection (b) above when it will further the purpose of this article and be in the best interest of the community, and when it is demonstrated that development of the property is imminent as determined by the following criteria:
 - a. A development proposal is submitted for approval by development review board within ten (10) days of the notice of violation.
 - b. The general plan designation of the property is consistent with the proposed development.
 - c. The zoning of the property is consistent with the proposed development.
 - d. Infrastructure improvements are in place which can support the proposed development.
4. Granting of waiver; cost of replacing and maintaining native plant materials.
 - a. If a waiver is granted, a sum of money shall be paid to the city for the purpose of replacing and maintaining native plant materials. The development review board shall determine the sum of money to be paid to the city from the following schedule:
 - (1) Protected native trees. Three hundred dollars (\$300.00) per caliper inch (measured one (1) foot above ground level).
 - (2) Protected native cacti. Two hundred dollars (\$200.00) per foot.
 - (3) Maximum per plant. Ten thousand dollars (\$10,000.00).
 - b. Determination of the sum of money to be paid to the City pursuant to this section shall be based upon the type, size, density, distribution, and condition of plant materials that existed on the property prior to the violation, or upon inspection of the remains of plant materials or other physical evidence as may be available. Appeal of a decision of the Hearing Officer regarding this determination may be made to City Council in accordance with the rules and procedures established in section 14-40-11 of the Zoning Ordinance.

- c. The sum of money required by this subsection shall be used to replace removed or damaged plant materials whose retention is required by a native plant program approved in conjunction with the development proposal specified in subsection M.3.a of this section and to maintain replacement plant materials for a period of three (3) years. Additionally, fifteen (15) percent of the total amount payable shall be kept by the City as payment for the enforcement of these regulations and administration of the agreement specified in section M.4.d.
- d. Prior to issuance of any permits for construction on or development of the property, the property owner shall enter into an agreement with a landscape installation and maintenance service and the city to ensure replacement and three (3) years' maintenance of the replacement plant materials, to provide disbursement of the sum of money for the purposes of replacement and to pay administrative costs. The sum of money paid to the City in excess of the amounts specified in the agreement shall be refunded.

SECTION 14-40-8 ENFORCEMENT INSPECTIONS.

In order to ensure compliance with this Article, inspections may be made by the Planning Manager or his or her duly authorized representative after making a reasonable attempt to obtain the consent of the property owner or representative. If such inspection reveals that any property or portion of a project is not in compliance with the requirements of this Article, the Planning Manager or his or her duly authorized representative shall report the discrepancy to the property owner, developer or their representative and shall order work on the project stopped or corrective action taken as appropriate.

SECTION 14-40-9 AUTHORITY, INTERFERENCE, PENALTIES

- A. Enforcement Authority. This overlay district shall be enforced by the Community Development Director of the City of Peoria, or his or her duly authorized representative who shall have the authority to enter any building, structure or premises or any part thereof, at any and all reasonable times in accordance with legal requirements governing administrative inspections or private property, for the purpose of performing the Community Development Director's official duty.
- B. Interference with Enforcement Personnel. It shall be unlawful for any person to willfully interfere with, hinder or obstruct enforcement personnel in the discharge of their duties.
- C. Penalties. A violation of any provision of this Article shall be subject to the violation and penalty provisions of the Zoning Ordinance.

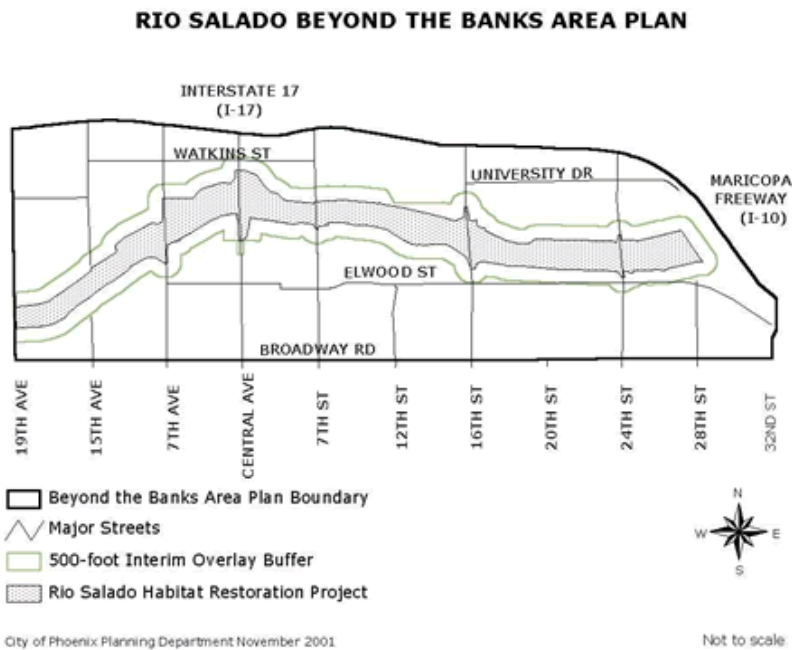
SECTION 14-40-10 WAIVERS

- A. Slope Category Determination Study. Applicants seeking a waiver from the requirements for a Slope Category Determination Study shall submit a written request to the Planning Manager. The request shall contain an explanation of why a waiver is warranted and shall include such supporting materials as site photographs, site specific topography information and all other such information which may provide information on the request.
1. The Planning Manager may approve or deny an application as submitted or may request additional information if necessary. It shall be the sole burden of the applicant requesting such a waiver to show that the subject property does not qualify as a Hillside Development Area under this Article.
 2. The Planning Manager may grant the requested waiver upon a finding that reasonable evidence exists that the subject site does not contain potential slope area that would qualify as a Hillside Development Area.
 3. Appeals from the Planning Manager decision pursuant to this paragraph may be appealed to the Administrative Hillside Hearing Officer subject to the provisions of Section ___.
- B.

SECTION 14-40-11 APPEALS

- A. Appeal to the Hearing Officer
1. Decisions of the Community Development Staff arising from the administration of the requirements contained in Article 14-40 may be appealed to the hearing officer, which shall be appointed by the City Manager to hear such appeals. The appeals shall be in writing and specifically setting forth a decision of the Community Development staff which are being appealed. The appeal shall be filed with the Community Development Director.
 2. A copy of the appeal and complete file shall be transmitted to the hearing officer. The hearing officer shall hold a hearing and provide the applicant and Community Development staff an opportunity to present their position. Such hearings shall be informal and the rules of evidence and civil procedure shall not apply.
 3. This hearing officer shall act upon an appeal within ten (10) days after filing and shall submit his or her decision in writing to the applicant and the Community Development Director.
- B. Appeals to the City Council.

1. An applicant may appeal the decision of the hearing officer to the City Council. The appeal shall be in writing and shall specifically set forth the decision of the hearing officer which is being appealed. The appeal shall be filed with the Community Development Director.
2. A notice of the appeal shall be mailed at least ten (10) days prior to the council meeting in which the appeal is heard to each property owner situated wholly or partially within three hundred (300) feet of the property to which the plan relates. The applicant shall provide the Community Development staff with the names and addresses and addressed and stamped envelopes for all property owners within three hundred (300) feet of the property. The Community Development staff shall be responsible for mailing such notices.
3. A copy of the appeal letter, decision of the hearing officer and supporting material shall be transmitted to the City Council. At a regularly scheduled Council meeting the applicant and the hearing officer shall present their positions.
4. The City Council shall act upon the appeal within thirty (30) days after the appeal is filed with the Community Development Director.



SECTION 14-40-12 Definitions

Alter means to change or modify natural vegetation an/or topography by removal, cuts, fills, grading or the building of structures.

Conservation Feature means a land feature or naturally occurring phenomena that is a key part of the natural desert setting or that must be buffered in order to safeguard the public health, safety and welfare. Such features may include but not be limited to Primary Peaks, Mountainous Areas, Isolated Peaks, Skyline Ridges, Plateaus, Rock/Boulder Formations, Significant Vegetation Areas, Significant Vegetation Specimens, Riparian Vegetation, Riverine Areas, Primary Washes, Secondary Washes, Springs, Tanks, Wildlife Corridors, Wildlife Habitat, Cultural Resources, and View Corridor.

Cultural Resource means prehistoric and historic sites identified according to standards established by the State Historic Preservation Office. Includes artifacts such as rock walls, etc.

Conservation Features or Areas, Primary means individual conservation features, defined above, and/or areas of the highest significance and preservation priority.

Conservation Features or Areas, Secondary means individual conservation features, defined above, and/or areas of lesser significance and preservation priority than primary conservation features or areas.

Conservation Features Plan (CFP) means a map containing the following information:

1. Conservation Features;
2. Natural Open Space areas such that as many conservation features are combined into a contiguous area, as possible;
3. Tabulation of the size of each Natural Open Space area, in acres and square feet, and a total of all Natural Open Space proposed for the project;
4. Parks;
5. Streets; and
6. Developed areas.

Conservation Plan, Master (MCP). The MCP shall, on a single map, correlate project Conservation Features and proposed NOS with elements of the proposed development. It shall contain:

1. Conservation Features to be preserved;
2. NOS areas;
3. Residential and commercial areas to be developed;
4. Streets, trails and drainage ways;
5. Public/Quasi-public facilities; and
6. Developed parks.

Cut means a land surface, which is shaped through the removal of soil, rock, or other materials.

Desert Lands Conservation Report (DLCR) means a submittal required with any development application to the City for property within the Desert Lands Conservation Overlay District, and which contains the following individual documents: Existing Conditions Data Report, Hillside Development Plan, View Corridor Assessment, Native Plant Preservation and Mitigation Plan, Conservation Features Plan, and Master Conservation Plan.

Destroy means to kill, or cause the death of any protected native plant by any means.

Disturbance/Coverage Envelope (DCE) means one (1) or more specified areas on a lot or parcel within which all structures, driveways, parking, nonnative landscaping, water surfaces, decks, walks, walls, and improved recreation facilities are located. Underground utilities and subdivision perimeter walls may be located outside the construction envelope. No part of the DCE shall be part of a required set back area.

Disturbed Area means that area of natural ground that has been or is proposed to be altered through grading, cut and fill, removal of natural vegetation, placement of material, trenching, or by any means that causes a change in the undisturbed natural surface of the land or natural vegetation.

Disturbed Area, Reclaimed means disturbed areas that have been restored to their natural contours, vegetation and colors.

Fill means the deposition of soil, rock or other materials place by man.

Finished Grade means the final grade and elevation of the ground surface after grading is completed.

Grade, Natural means the elevation through any section of a site on an undisturbed lot at the time of adoption of this overlay by City Council. On lots that have been disturbed previously, the natural grade is the pre-existing grade if it can be determined; otherwise it shall be determined by an average of off-site elevations at points taken around the boundary of the site.

Grading means any excavating, or filling or combination thereof, including the conditions resulting from an excavation or fill.

Habitat Value means the suitability of the landscape to support wildlife considering site conditions.

Isolated Peak means a Primary Peak that occurs in a typically flatland area. These are landmark features whose rugged vertical form contrasts sharply with the horizontal ground plain.

Mature Tree means a healthy, full-bodied tree with a shape characteristic of the species and of the following minimum sizes: Ten (10) feet - twelve (12) feet in height; six (6) inches-eight (8) inches wide or two-inch single trunk caliper or one-inch average trunk caliper for a multiple trunk tree.

Mountainous Area means areas such as the Hieroglyphic Mountain Range which include numerous peaks, rugged topography, steep slopes and small v-bottomed washes flowing out of the area. The limits of a mountainous area is established when more than 60% of the area has slopes of 25% or greater.

Mutilate means to deface, maim, damage or disfigure any protected native plant by shooting, chopping, pushing over, burning, cutting or any other means.

Native Plant Permit means a permit issued by the city pursuant to the provisions of this article for the purpose of removing from the premises, relocating on the premises, or destroying any protected native plant.

Native Plant Program means a development plan specifying the proposed treatment of protected native plants for which a native plant permit is required.

Natural Open Space means areas containing naturally occurring Sonoran Desert vegetation and conservation features that have not been altered except to allow decomposed granite trails (private or public) in accordance with ADA guidelines, roadways and utility easements as necessary.

Plant Protection means any project which affects any indigenous plant from the specified Protected Native Plant List is required to submit a Native Plant Program detailing the existing location and proposed treatment of each protected plant. Protected plants shall, at the most optimal situation, remain in place.

Plant Salvaging means those plants which must be disturbed due to construction are required to be salvaged unless the applicant can demonstrate how conditions such as poor health or orientation make successful relocation impossible. Salvaged plants are to be replanted within the project.

Plateau means an extensive land area characterized by slopes leading to a relatively level surface and situated at a uniformly higher elevation than adjacent land on at least one side. The boundaries of a Plateau shall extend from the edges of the Plateau to the 25% slope line.

Primary Peak: Prominent peaks that are visual landmarks from various points of view and rise at least 400 feet above the surrounding base elevation. The boundaries of a Primary Peak shall extend radially from its highest point to the 25% slope line.

Private Buffer means an area located adjacent to a public or private preserve open space edge that is used as an undisturbed or enhanced landscape setback. The buffer may be

platted as common open space for the development or as individual lots. The area shall contain no improvements or be used for any purpose other than a landscaped setback.

Protected Native Plant means cacti which are three (3) feet or greater in height and trees which are four (4) inches or greater in caliper.

Q means the peak discharge associated with the one hundred-year flood event (Q100). It may be estimated using simplified methodologies such as ADWR state standard #2 (section 2-96), USGS regression equations, or other similar approximate methods as approved by the City.

Relocate means to transplant a protected native plant to another location on the premises.

Remove means to transport a protected native plant from the premises on which it has been growing.

Restore means to replant areas of burned, damaged or disturbed naturally occurring Sonoran Desert vegetation and topographical features with trees and plants of the same species, size, density and placement as the surrounding area; and recontoured, if necessary, to appear similar to nearby slopes.

Retaining Wall means a wall used solely to retain more than eighteen inches (18") of material but not to support or to provide a foundation or wall for a building.

Ridge Line means that line running along the highest elevation between mountain peaks.

Riparian Vegetation means native vegetation that grows where there is a concentration of sustainable drainage water resulting in larger plants, greater species diversity and greater density. Generally lines washes, rivers, tanks and springs.

Riverine Area means environmentally diverse riparian areas associated with the New River and Aqua Fria Rivers.

Rock/Boulder Formation means formations including escarpments, cliffs or pinnacles which consist of exposed rock faces with limited vegetative cover.

Significant Vegetation Area means a stand of Sonoran Desert vegetation that is thirty percent more concentrated than the general aspect of the immediate context area and difficult to salvage due to slope, rocky soil conditions or exposed roots due to an adjacent wash. Generally located adjacent to a wash or other source of water and projects the character of the site best when protected in place.

Significant Vegetation Specimen means a native tree with an 8" or greater caliper trunk and multi-trunk in good health, a saguaro over 20 feet in height and/or multiple arms

or crest or other unusual configuration in good health, or other mature protected species, such as Ocotillo.

Skyline Ridge means ridge lines and ridge line complexes which are visible from existing and/or planned collector and arterial roads, have an elevation difference of a maximum of three hundred (300) vertical feet from the property line of the subject parcel, have a vertical height increase of more than three hundred (300) feet as measured from the point of the ten percent (10%) slope line of the ridge or ridge complex, or are determined by Staff to be significant during the site analysis process. The boundary of the Skyline Ridge is the 25% slope line of the slope nearest a ridgeline.

Spill means to cause or allow earth or other material to fall, flow or run down a slope, thereby creating a change in the natural appearance and topography.

Spring means a permanent small stream or source of water coming out of the ground. The boundary for a Spring shall be 20 feet from water's edge or top of bank.

Tank means a natural or man-made pond used as a water supply, usually for cattle.

Wash, Primary means wide, sand bottom washes that carry drainage from a relatively broad watershed and are fed by a number of smaller tributary washes. These washes generally have dense thickets of vegetation along their edges and are easily identified from aerial photographs.

Wash, Secondary means tributaries to the significant washes and the rivers. The majority of these washes are the finger washes, which occur between the slopes in the rugged areas. They have narrow sand bottoms or are V-shaped. There is increased vegetation density along these washes but the height of the vegetation is more in the large shrub category with a height of 5 to 15 feet.

Wildlife Corridor means pathways or habitat linkages that connect discrete areas of natural open space otherwise separated or fragmented by topography, changes in vegetation, and other natural factors in combination with urbanization, and which 1) permit animals to move between remaining habitats allowing depleted populations to be replenished and promoting genetic exchange; 2) provide escape routes from fire, predators, and human disturbances, thus reducing the risk that catastrophic events, such as fire or disease, will result in population or species extinction; 3) serve as travel paths for individual animals as they wander throughout their home ranges in search of food, water, mates, and other needs, or for dispersing juveniles in search of new home ranges.

Wildlife Habitat means locations where native wildlife has a tendency to congregate due to provision of food, shelter and/or water.

Undisturbed Natural Desert means Naturally occurring Sonoran Desert vegetation and topographical features, including washes, are not altered except to allow decomposed granite natural trails or as necessary for utility easements. Vegetation is not pruned or removed and allows natural habitat for native animal species. Dead trees or cacti also form an integral part of the wildlife habitat.

Unique Feature means a unique and identifiable feature that varies from the immediate surroundings, such as springs, tanks, saddles, expansive saguaro or cholla forests, etc.

Unsalvageable Plant means a protected native plant which cannot be successfully relocated due to any of the following:

1. Deteriorated health from disease, infestation, or natural causes
2. Physical constraints related to plant location, orientation, or general condition which obstruct and/or prevent the application of approved relocation techniques.

Viewpoint means high activity locations, such as intersections, along streets of minor collector or higher classification, from which significant or prominent features are visible and from which development within the DLCO area can be observed.

Viewshed means the area visible within the normal cone of vision from a specific viewpoint, and which contains conservation features or other unique vegetative and/or topographic features.

Viewshed Analysis means a tool for identifying and classifying the important positive and negative visual attributes of a defined geographic region.

State Enabling Statute

[ARS 9-462-01](#)

Contact: Phil Gardner, Senior Planner,

Email: philg@peoriaaz.com

City of Peoria
8401 W. Monroe Street
Peoria, AZ 85345

Reference: Gardner, Phil (City of Peoria) Personal Communication; email to author. 1 April. 2003.

Interview/email notes:

The law has:

- a. Minimized development on slopes over 10%
- b. Strictly controls natural land that can be disturbed during a construction project, including hillside cuts and slope spillage to create development pads
- c. Creates construction and disturbable area envelopes

Its been controversial in that Developers don't like the controls and don't like creating the required submittals which graphically depict digital descriptions of 10%, 15%, 20% and 25% slope boundaries. Enforcement has been time intensive for the City that must do field inspections to verify conditions and compliance. The idea came from our first development in natural desert areas when we found the desert defenseless from developers that wanted to exercise property rights to the fullest extent. This is an internally generated ordinance. The City has been fought by individual developers and developer lobby groups in creation and enforcement. Environmental protection groups also do not like the ordinance because they say it doesn't go far enough. City of Scottsdale, AZ – Environmentally Sensitive Lands Ordinance (ESLO), which was created as a result of a developer lawsuit over Scottsdale's hillside protection ordinance. Town of Oro Valley, AZ – Native Plant Protection ordinance, which protects native desert plants (Arizona has some of the most unusual plant life in the world. Saguaro Cactus – the one with arms- is one of the most sought after and pirated plants in the western United States.) City of Phoenix, AZ – Hillside protection ordinance. City of Tucson, AZ – Environmental Protection Ordinance. Sierra Club, Southwest Center for Biodiversity, the Nature Conservancy, The Sonoran Institute (Try Google search for Arizona Environmental Protection Organizations.)